



# **GUIDELINES FOR THE APPROVAL OF**

## **DAY AND RESIDENTIAL EDUCATIONAL COMPONENTS IN**

# **PRIVATE SCHOOLS**

### **UNDER CHAPTER 766**

GOVERNMENT DOCUMENTS  
COLLECTION

APR 1 - 1983

University of Massachusetts  
Depository Copy

Department of Education      Division of Special Education

May 1, 1980

802/264

## MASSACHUSETTS BOARD OF EDUCATION

Anne H. McHugh, *Chairperson*  
James L. Green, *Vice-Chairperson*

John Anthony  
John W. Bond  
Millie Clements  
Howard A. Greis  
Charles T. Grigsby  
Mary Ann Hardenbergh  
Armando Martinez  
Joseph C. Mello  
Edwin M. Rossman  
Donald R. Walker

Gregory R. Anrig, *Commissioner of Education, Secretary*

### ***Ex Officio Member***

Laura B. Clausen, *Chancellor, Board of Higher Education*

Prepared by the Division of Special Education  
Roger W. Brown, *Associate Commissioner*

Revised by:

Lewis Williams  
Lois Taylor  
Elizabeth Ficken  
James Major  
Mildren McCarthy  
Mary McLean  
Reggie Sapp

Jack Conlon  
Linda Estes  
Ron Honesty  
Carol MacNeill  
Ed McCarthy  
Tomi Olson  
Jack Regan

Ed Boyd  
Bob Littleton  
Ann Meehan  
Peggy Newnan  
Barbara Schaechter  
Pat Vilani  
Bob Whiles

Jean Annesse  
Ann Schwarzkopf

Produced by the Bureau of Educational Information Services  
Richard A. Gilman, *Director*  
Cynthia F. Nadreau, *Production Coordinator*

The Massachusetts Department of Education insures equal employment/educational opportunities/affirmative action regardless of race, color, creed, national origin or sex, in compliance with Title IX, or handicap in compliance with Section 504.

These Guidelines are promulgated in accordance with Chapter 71B of the General Laws enacted in 1975. Revised May 1, 1980 from the original Day and Residential Guideline published in January 1977 and March 1977.



# The Commonwealth of Massachusetts

## Department of Education

31 St. James Avenue, Boston, Massachusetts 02116

### INTRODUCTION

The procedures and criteria for the approval of private schools under Chapter 766 are designed to assure that the educational, health, and safety standards in private schools are of good quality and protect the safety and welfare of the students placed in private educational programs. The criteria for approval are outlined in the Guidelines for Approval of Private Schools. In October of 1978 a task force, consisting of representatives from the Department of Education, the human service agencies, and public and private schools began the task of revising the Guidelines for the Approval of Private Schools. The revised guidelines incorporated all relevant changes in the laws and regulations of the Department of Education and the human service agencies, as well as modifications that resulted from consultation with representatives from the public and private sector. The Guidelines were reviewed by the legal department to assure compliance with all state laws and regulations.

Interagency cooperation is imperative to provide the best services to all special needs students. In January all the Commissioners of the Human Service agencies were asked to review the Guidelines and sign-off indicating their approval of the changes.

The revision process was lengthy, but carefully researched, and represents a document we are proud to distribute. I would like to extend my personal thanks to all those people who worked so hard and conscientiously revising the Guidelines for Approval of Private Schools.

Sincerely,

A handwritten signature in cursive script that reads "Roger W. Brown".

Roger W. Brown  
Associate Commissioner





## TABLE OF CONTENTS

PAGE NO.

SUBCHAPTER A - GENERAL ADMINISTRATIVE PROCEDURES.....p.1-14

Part 100 - Definitions

Part 101 - Procedures for Applying for Approval as a Special  
Needs Private School

101.01 Applications

101.02 Requirements for Applicant

101.03 Action by the Department through the Regional  
Review Board

101.04 Applicability of these Guidelines and Licensure  
by the Office

101.05 Waivers

101.06 Provisions for the Transition of Students from  
Private Schools into Public Schools

Part 102 - Types of Approval

102.01 General Requirement

102.02 Requirements for Temporary Approval

102.03 Requirements for Provisional Approvals

102.04 Requirements for Full Approval

Part 103 - Visits by the Department or Public Schools

103.01 Visits to Determine Compliance

103.02 Use of Outside Consultants by the Regional  
Review Board

Part 104 - Suspension, Revocation and Refusal to Issue or Renewal  
of Approvals

104.01 Refusal to Issue Approval/Suspension of Approval

104.02 Appeals

Part 105 - Posting of Approval and Required Notifications

105.01 Posting of Approval

105.02 Notification of Legal Proceeding

105.03 Notification of Death of Serious Injury

105.04 Notification of Change in Ownership

105.05 Transfer of Approval

105.06 Notification of Change in Chief Administrator

105.07 Change in Location

105.08 Change in Policy, Program, Staffing, or Services

Part 106 - Availability of Guidelines and Chapter 766 Regulations

Part 107 - Effective Date of Guidelines; Approvals Issued under Previous Guidelines; Severability

107.01 Effective Date

107.02 Approvals Issued Under Previous Guidelines

107.03 Severability Clause

SUBCHAPTER B - ADMINISTRATION OF EDUCATIONAL COMPONENTS.....p.14-19

Part 200 - General Administrative Requirements for Educational Components

200.01 Statement of Purpose

200.02 Non-Discrimination

200.03 Posting of Rate

200.04 Evidence of Authority to operate

200.05 Designation of Administrative Responsibility

200.06 Role of Administrator

200.07 Organizational Table

200.08 Finances

200.09 Research, Experimentation, Fund Raising, Publicity, Observations, Required Notifications and Authorizations

200.10 Discipline; Hazardous Treatment; Policy on Restraint and Exclusion/Time Out Procedures; Suspensions

Part 201 - Personnel Policies for Day and Residential Schools

201.01 Personnel Policies

201.02 Job Descriptions

201.03 Salary Ranges

201.04 Evidence of Required Licensure, or Registration

201.05 Staff Orientation

201.06 Staff Training

201.07 Volunteers

Part 202 - Information Required by the Department

202.01 Availability of Information to the Department

SUBCHAPTER C - PROGRAMS AND SERVICES FOR DAY AND RESIDENTIAL SCHOOLS.....p.20-35

Part 300 - Admissions and Termination Requirements for Day and Residential Schools

- 300.01 Requirements for Admissions
- 300.02 School Size
- 300.03 Required Medical Examination
- 300.04 Age Appropriate Immunizations
- 300.05 Interview
- 300.06 Placement Preparations for Residential Students
- 300.07 Termination

Part 301 - Requirements for Services for Day and Residential Schools

- 301.01 Parent Involvement
- 301.02 Health Care Policy
- 301.03 Consent for Medical Treatment
- 301.04 Medical Treatment Waiver
- 301.05 Social, Psychological, Psychiatric and other Services
- 301.06 Recreational Services
- 301.07 Religious Services
- 301.08 Case Management

Part 302 - Educational Programs for Day and Residential Schools

- 302.01 General Requirement
- 302.02 Designation of Educational Administrator
- 302.03 Requirements for Curriculum
- 302.04 Daily Duration and Number of Days Provided
- 302.05 Teacher/Student Ratio
- 302.06 Number of Teachers and Qualifications
- 302.07 Teacher Supervision, Training, and Evaluation
- 302.08 Educational Plans and Reviews
- 302.09 Student Records
- 302.10 Storage and Confidentiality of Educational Records
- 302.11 Accessibility

Part 303 - Transportation Provided by Day and Residential Schools

- 303.01 Written Plan
- 303.02 Vehicle and Driver Requirements
- 303.03 Insurance
- 303.04 Transportation Safety

Part 304 - Water Safety

- 304.01 Written Plan
- 304.02 Personnel Requirements



SUBCHAPTER D - DAILY CARE OF CHILDREN IN DAY AND RESIDENTIAL  
SCHOOLS.....p.35-41

Part 400 - Supervision of Children

- 400.01 Child-staff Ratios
- 400.02 Supervision and Training of Child Care Staff
- 400.03 Role of Child Care Staff
- 400.04 Emergency Assistance to Children

Part 401 - Clothing, Grooming and Hygiene

- 401.01 Clothing
- 401.02 Grooming and Hygiene

Part 402 - Food and Nutrition in Day and Residential Schools

- 402.01 Nutrition
- 402.02 Storage of Toxic Substances
- 402.03 Written Menus
- 402.04 Meal Schedules
- 402.05 Nutritional Requirements
- 402.06 Written Plan and Designated Person
- 402.07 Requirements for Food Preparation, Storage and Services

Part 403 - Toileting Procedures for Day and Residential Schools

- 403.01 Written Plan
- 403.02 Toilet Training
- 403.03 Diapering Requirements
- 403.04 Clothing Requirements

Part 404 - Visiting, Mail, and Telephones

- 404.01 Visiting Policy
- 404.02 Mailing and Telephones

Part 405 - Runaways

SUBCHAPTER E - PHYSICAL FACILITY AND EQUIPMENT FOR DAY AND  
RESIDENTIAL SCHOOLS.....p.41-50

Part 500 - Safety Requirements and Inspections for Private Schools

- 500.01 Safety Inspection
- 500.02 Fire Inspection
- 500.03 Fire Safety Requirements
- 500.04 Meals Inspection
- 500.05 Water



500.06 Lead Paint Requirements and Lead Paint  
Inspection

500.07 Building Code

500.08 General Health and Safety Inspections

Part 501 - Safety Programs

501.01 Emergencies

501.02 Posting of Procedures

501.03 Drills in Emergency Procedures

501.04 Evacuation

501.05 Accidents

Part 502 - Living Areas

502.01 Arrangement of Living Areas

502.02 Furnishings

502.03 Bedrooms

502.04 Money and Other Valuables

502.05 Individual Furniture

502.06 Storage Areas

502.07 Common Areas

Part 503 - Bathing and Toilet Facilities

503.01 Equipment and Facilities

Part 504 - Space and General Requirements for Physical Facility for  
Day and Residential Schools

504.01 Indoor Space

504.02 Outdoor Space

Part 505 - Dining Facilities and Equipment for Day and Residential  
Schools

505.01 Dining Rooms or Areas

505.02 Dining Furniture

505.03 Dining Utensils

505.04 Drinking Water and Cups

Part 506 - Bathroom Facilities for Private Schools

506.01 Toilets and Wash Basins

506.02 Water Temperature

Part 507 - Kitchen Facilities

- 507.01 Required Barrier to Kitchen
- 507.02 Required Maintenance

Part 508 - Architectural Barriers

- 508.01 Requirements for Children with Limited Mobility
- 508.02 Building Entrances

Part 509 - Requirements for Equipment in Day and Residential Schools

- 509.01 General Requirements
- 509.02 Classroom Materials
- 509.03 Library
- 509.04 Recreation Equipment
- 509.05 Condition of Equipment

R means Residential Program only

## SUBCHAPTER A -- GENERAL ADMINISTRATIVE PROCEDURES

## PART 100 -- DEFINITIONS

§ 100.01 Definitions

As used in these Guidelines, the following words shall have the following meanings unless the context otherwise requires:

- (a) "Administrator of Special Education," the person appointed by the school committee of any city or town, or school district to serve as the administrator of special education pursuant to Chapter 766 of the Acts of 1972 and its Regulations.
- (b) "Approval," a certification in writing, whether full, provisional, or temporary issued by the Department of Education, Division of Special Education, which authorizes a private school to provide educational services under the provisions of Chapter 766 of the Acts of 1972 and its regulations.
- (c) "Child," any person three years of age and until his/her twenty-second birthday.
- (d) "Commissioner," the Commissioner of Education, or the Associate Commissioner of Special Education as his designee.
- (e) "Days," calendar days, unless otherwise specified in these Guidelines.
- (f) "Department," the Department of Education acting through the Division of Special Education.
- (g) "Director," the Director of the Office for Children or his/her designee.
- (h) "Emergency Termination," removal of a child from the school due to any unplanned circumstance where the child has run from the program or when the child is endangering the physical health and safety of himself/herself and/or others.
- (i) "LEA," the local education agency is the same as the public school system, or school committee.
- (j) "License," any certification in writing, whether full or provisional, issued by the Office for Children to any person other than a department, agency, or institution of the Commonwealth or any political subdivision thereof, which authorizes such person to operate a group care facility or a special needs day care center.

- (k) "Office," the Office for Children.
- (l) "Parent," father, mother, or guardian; or person or agency legally authorized to act on behalf of the child in place of or in conjunction with the father, mother, or guardian, or surrogate parent who has been appointed in accordance with Division procedures. A student who is eighteen years of age or older may act on his/her own behalf in place of the parent.
- (m) "Private School," for purposes of these requirements, a private day or residential school is any private institution or school within or outside the Commonwealth which offers special education services and curriculum instruction to every child enrolled. The school shall provide the following:
  - (i) The day program (502.5) should be the private school's own special educational program individualized to serve the students placed based on their individual educational plans. A private school cannot subcontract for the educational program without the prior approval of the Office of Child Placement and Registry.
  - (ii) A residential (502.6) program shall meet the following requirements:
    - a - OFC licensing
    - b - Health, fire, safety and building inspections
    - c - Chapter 766 Regulations for the Approval of Private Schools (Chapter 8)
    - d - Guidelines for the Approval of Private Schools
    - e - and the educational program shall comply with (i) above.
- (n) "Rate Setting Commission," The Massachusetts state agency established under G. L. Chapter 6A, Section 32 to establish rates for service providers.
- (o) "Regional Review Board," a board in each Executive Office of Human Service region established under Paragraph 612.0 and duties defined under Paragraph 613.0



of the Chapter 766 Regulations to approve private schools in Massachusetts as defined under Paragraph 800. In the case of schools located outside of Massachusetts, the State Review Board, established under Paragraph 614.0 and duties defined under Paragraph 615.0 of the Chapter 766 Regulations, performs this function.

- (p) "School Year," equal to that of a public school or the number of days set by the Board of Education, (at least 180 days) unless otherwise specified by the educational plan.
- (q) "Special needs child," a child who meets the definition of 'Child in need of special education services' Paragraph 103.0 of the Chapter 766 Regulations.
- (r) "Special needs day care center," is a preschool program. A separate center-based program is a preschool program in which more than fifty percent of the children are children with substantial disabilities. Such a program shall be licensed by the Office for Children and approved by the Regional Review Board under § 502.8 (c) of the Chapter 766 Regulations and these Guidelines.
- (t) "Team," a team of persons designated to evaluate a child's need for special educational services under Chapter 766 of the Acts of 1972 and its Regulations.

PROCEDURES FOR  
PART 101 -- APPLYING FOR APPROVAL  
AS A SPECIAL NEEDS  
PRIVATE SCHOOL

§ 101.01 Applications

Any agency who wishes to establish a private school serving children under the provisions of Chapter 766 of the Acts of 1972 shall file an application in writing with the appropriate Regional Review Board Chairperson (and the Office in the case of a special needs day care program).

- (a) For a school located in Massachusetts, a copy of the school's approval by the local school committee pursuant to G. L. Chapter 76, Section, or

- (b) for a school located in a state other than Massachusetts, a copy of the school's approval by the agency(cies) of that state required by law to approve special education facilities.

#### § 101.02 Requirements for Applicant

The applicant shall be the person designated by the owner or the governing body as having the responsibility for the administration of the private school.

#### § 101.03 Action by the Department through the Regional Review Board

Upon receipt and review (which may include interview, site-visits, and consultation related to the Guidelines for approval) of an application for an approval or renewal thereof, the Regional Review Board shall issue or renew an approval in accordance with Paragraph 801.0 of the Chapter 766 Regulations if it finds that the applicant is in compliance with the Guidelines. In the case of renewal, such action shall be taken prior to the expiration date of the present approval. In the event of delay, the prior approval remains in effect until the renewal is granted.

#### § 101.04 Applicability of these Guidelines and Licensure by the Office

The Guidelines for the Approval of Residential and Educational Components in Private Schools under Chapter 766 Regulations shall be applicable to the following types of programs:

- (a) Private residential schools serving students from 16-21 years of age exclusively shall meet the requirements of these Guidelines.
- (b) Private residential schools serving students both above and below 16 years of age shall hold a current Group Care License from the Office for those parts of facility and program which serve children under 16 years of age, and shall meet the requirements of these Guidelines for all parts of the facility and program serving students 16 years of age and above;
- (c) Separate center-based preschool programs must have a special needs day care license from the Office as well as meet the requirements of these Guidelines.

#### § 101.05 Waivers

The Division of Special Education, of the Department, with the recommendation of the Regional Review Board, may, upon written request, waive any educational requirements contained in these Guidelines and allow an alternative method for compliance with such Guidelines if the applicant provides clear and convincing evidence



that the school or program in question meets the intent of the Guidelines. The evidence necessary shall include:

- (a) Written explanation as to how the alternative method will comply with the intent of the requirement for which a waiver is requested.
- (b) Expert opinion which demonstrates that the alternative method will comply with the intent of the requirement for which a waiver is requested, if deemed necessary by the Regional Review Board in conjunction with the Office for Child Placement and Registry.

The Division may not waive any Guidelines of any other State or local agency (i.e. fire, health, safety, Office for Children). All requests for waivers must be submitted for review and approval to the Office for Child Placement and Registry.

#### § 101.06 Provisions for the Transition of Students from Private Schools into Public Schools

The purpose of the provisions for the transition of students from private schools into public schools is to provide the least restrictive educational prototype for students assigned to prototype 502.5 and 502.6 (private day and residential programs). Programs established pursuant to this policy would serve as a bridge between the private day or residential setting and the public school setting. These programs will be used to "phase-in" the return of students to the public school system for private day or residential placements.

No student in a private school will be allowed to participate in a transitional program without the approval of both the public school system in his/her home community, the public school system which the child will be attending if different, and his/her parents.

The public school system together with the private school and the parent will determine, during the annual review of the child's program or during the quarterly progress report review (§ 333.1 and 337.0 of the Chapter 766 Regulations), if the child is ready to be returned to the public school system or if a period of "phase-in" is needed. If "phase-in" is required, the child will be allowed to participate in the public school setting for certain chosen educational programs as determined by the evaluation TEAM, and will remain in the private school for the remainder of his/her program, for no more than one school year from the date of the approval of the transitional program.

Funding for transitional programs will be arranged by mutual agreements between the public school system and the private school. If the child is spending more time in the public school than in

the private school, the public school can elect to pay the private school on a fee-for-service basis for the services provided to the individual student.

A transitional program for a student placed in a private residential school located outside of his/her community may require attendance at a public school other than that of the child's home community. This shall not be done without the permission and agreement of the public school system of the child's home community and the public school system which the child will be attending. The financial agreement for the educational program must be arranged by agreement with the private school, the public school system of the child's home community, and the public school system which the child will be attending.

A child in a transitional program will have his/her progress reviewed periodically to determine whether he/she should continue in the program, return to the public school program or return to a regular 502.5 or 502.6 program. This review shall be done at least quarterly. The financial arrangements should also be reviewed and adjusted as appropriate, whenever there is a change in the child's placement.

Transition of special needs students will be reported, for Chapter 70 purposes, in the prototype in which they are being served. Students spending more than 50% of their time in the private school will be reported as a 502.5 or 502.6. Students spending more than 50% of their time in the public school will be counted as a 502.2, 502.3, 502.4, or 502.4(i). Services provided by the private school will be contracted for on a fee-for-service basis under 503.0 of the Chapter 766 Regulations.

The approval process for transitional programs will be in accordance with Chapter 766 Paragraph 504 of the Chapter 766 Regulations.

#### PART 102 -- TYPES OF APPROVAL

§ 102.01 All private schools must comply with all of the provisions of Chapter 8 of the Chapter 766 Regulations.

§ 102.02 Requirements for Temporary Approval

If the appropriate Regional Review Board finds that the school is in compliance with these Guidelines, and the Regulations, but does not have a rate promulgated by the Massachusetts Rate Setting Commission, the school shall receive temporary approval.

Under the temporary approval the school may begin to review referrals, but is not eligible for actual placement of special needs children under Chapter 766 until a rate has been set by



the Rate Setting Commission.

Until such time the Regional Review Board grants a full or provisional approval the Regional Review Board Chairpersons or his/her designee shall monitor the program through on-site visits and provide technical assistance to the new program.

### § 102.3 Requirements for Provisional Approval

If the appropriate Regional Review Board finds that the applicant has not complied with or is unable to comply with all applicable requirements, the Department may issue a provisional approval provided that the health and safety of the children is protected and that the applicant demonstrates the ability to carry out the educational plans of the children. Provisional approval shall be under the following terms:

- (a) The Regional Review Board shall send a letter to the private school delineating those requirements for approval that the school has not fulfilled.
- (b) The private school, upon receipt of the Regional Review Board's provisional letter, shall submit a written plan for meeting any unfulfilled requirements. This plan shall be reviewed by the Regional Review Board, and an agreed upon plan shall be implemented by the private school.
- (c) A provisional approval is valid for a period not to exceed three (3) months and may be renewed by written request through the Regional Review Board, once, for no more than three (3) months.

### § 102.04 Requirements for Full Approval

A full approval shall be granted to the school when the Regional Review Board is satisfied that the school complies with Chapter 766 Regulations and the requirements of these Guidelines. The term of approval will be in accordance with Chapter 8 § 801.0 of the Chapter 766 Regulations.

## PART 103 -- VISITS BY THE DEPARTMENT OR PUBLIC SCHOOLS

### § 103.01 Visits to Determine Compliance

In order to determine compliance with these Guidelines and Chapter 766 Regulations the following persons may visit the private school:

- (a) Employees of the Department of Education
- (b) School Committees or their designees
- (c) Members of the Regional Review Board

When a Regional Review Board investigates a complaint, a written report regarding the purposes and findings shall be made available to the private school within 30 days.

§ 103.02 Use of Outside Consultants by the Regional Review Board

The Regional Review Board may include professional consultants when appropriate for site-visits, subject to the following provisions:

- (a) Consultants shall act only in an advisory capacity and shall have no official standing or vote in the Regional Review Board;
- (b) use of consultants shall be limited to programs of a specialized nature where the input of a trained professional is necessary to assist the Board with the evaluation.
- (c) paid consultants shall be used only with prior approval by the Director of the Bureau of Program Audit and Assistance;
- (d) consultants for any particular visit shall not:
  - (i) be professionally involved with, or have any direct or indirect financial interest in the private school;
  - (ii) come from a public school which has students enrolled in the school to be visited.

PART 104 -- SUSPENSION, REVOCATION AND REFUSAL TO  
ISSUE OR RENEW APPROVALS

§ 104.01 Refusal to Issue Approval/Suspension of Approval

(a) Grounds for Adverse Action

The Department, through the Regional Review Board, may refuse to issue, or may suspend, an approval if the school does not meet any one of the major requirements of the Chapter 766 Regulations or these Guidelines. Grounds for disapproval or suspension of approval may include but are not limited to:

- (i) Any violation of a requirement of the Department that results in any situation that endangers the life, health, or safety of children or staff in school;



- (ii) Any attempt by the school to charge a parent or a school committee over and above the rate set by the Rate Setting Commission, for a child placed in the school under Chapter 766 or Chapter 750, unless the school has prior written approval from the Department [refer to Chapter 766 regulations § 504.6(b)] through the Division of Special Education;
- (iii) The school no longer meets the definition of "private school" as used in these Guidelines.

(b) Notice of Non-Approval or Suspension of Approval by Regional Review Boards.

Any notice of a refusal to issue, or suspension of an approval, shall be hand delivered or mailed to the school via first class mail, certified, return receipt requested. Upon written request, the Department shall review the refusal to issue, or suspension, of any such approval, in accordance with the procedure in Section 104.02 of these Guidelines. The notice to the school shall include all requirements of the appeal process under these Guidelines, the timelines for any appeal, a statement of the Regulation(s) or law(s) which were relied upon in making the decision to refuse or suspend approval, and a statement of the reasons for the decision.

- (c) The notice of refusal to issue an approval, or notice of suspension of an approval, pursuant to this section shall include a copy of this section, and of Section 104.02 of these Guidelines.
- (d) Until approval is granted, or a suspended approval is re-instated, no further placements under Chapter 766 may be made to the school. In addition, any school subject to a notice under this section shall notify parents of all children placed in the school under Chapter 766 and the public schools responsible for placing the children, of any such refusal to issue or suspension, of an approval, within five working days of the receipt of the notice from the Department through the Regional Review Board.

§ 104.02 Appeals

- (a) A school that receives a notice of non-approval or

suspension of approval, under Section 104.01(b) of these Guidelines, may make a written or oral presentation, or both, to the Regional Review Board on why approval of the school should be granted or re-instated. The school shall inform the Regional Review Board of its intention to request reconsideration within fifteen (15) working days. These hearings are not subject to Chapter 30A of the General Laws of the Commonwealth.

Such presentation shall include specific responses to the Regional Review Board statement of reasons for non-approval as mentioned in § 104.01(b). Such presentation constitutes an informal procedure in which rules of evidence and testimony under oath do not apply. However, for any oral presentation to the Regional Review Board complete minutes shall be kept on the meeting and filed in the school's application record. The Review Board members that found the major deficiencies shall be present to respond to questions related to those deficiencies. For non-approval or suspension of approval, a majority vote of the members who conducted the site visit is necessary.

The Regional Review Board shall issue a decision as a result of that presentation as to whether approval is granted or denied, within ten working days after the presentation.

- (b) If the school is dissatisfied with the action of the Regional Review Board, it may appeal in writing to the Commissioner. Until final resolution of the appeal, no further placements under Chapter 766 may be made to the school.
- (c) The school shall notify the Regional Review Board within ten working days after any adverse action by the Regional Review Board under Section 104.01(b) or 104.02(a) as to whether the school plans to appeal the decision to the Commissioner.
- (d) If the school chooses to appeal, it shall send a written appeal to the Commissioner, via the Regional Review Board, within fifteen working days after receipt of the notice under Section 104.01(b) or 104.02(a). This written appeal shall include



specific responses to the Regional Review Board's reasons for non-approval. Upon receipt of the written appeal the Regional Review Board shall submit the school's application data, including the notification on non-approval and the school's written appeal, to the Commissioner's office within five working days.

- (e) Upon receipt of the written material, the Commissioner shall designate a member of the Department to:
  - (i) review all data submitted from the school and the Regional Review Board:
  - (ii) meet with representatives from the school and the Regional Review Board if the Commissioner's designee deems it necessary;
  - (iii) determine if the action of the Regional Review Board was arbitrary or capricious or unsupported by substantial evidence.
- (f) Within twenty working days of the receipt of the written material, the Commissioner or his designees shall issue a written decision supporting, rejecting, or modifying the action of the Regional Review Board with respect to the school's application for approval. The decision, when issued, shall be sent to the school, the Regional Review Board, and the Division of Special Education.
- (g) Upon receipt of the decision, the Division shall notify all other Regional Review Boards, who shall in turn, notify all public schools with children placed in the school, and any public school wishing to place a child in the school.
- (h) If the decision upholds the Regional Review Board's action of non-approval, the public schools with children placed in the school, in conjunction with the Regional Offices of the Division, shall find alternative placements for those children under the requirements of Chapter 766.

#### PART 105 -- POSTING OF APPROVAL AND REQUIRED NOTIFICATIONS

##### § 105.01 Posting of Approval

The school shall post in a conspicuous place any current approval

issued by the Department. Such posting shall be in an area accessible to visitors and employees in each building.

§ 105.02 Notification of Legal Proceeding

Every school shall report in writing to the appropriate Regional Review Board any legal proceeding (within ten days of initiation of such proceeding) brought against it, or any person employed by the school, if such proceedings arise out of circumstances related to the care or education of children in the school, or the continued operation of the school.

§ 105.03 Notification of Death or Serious Injury

- (a) The school shall immediately report to the child's parent, the sending public school, and the appropriate Regional Review Board the following:
  - (i) the death of any child which occurs while such child is enrolled in the school;
  - (ii) any injury to or any previously unidentified disorder or illness of any child which occurs during the hours while such child is in school and which requires in-patient hospitalization.
- (b) If any injury to or any previously unidentified disorder or illness of any child in (a) (ii) above occurs, and the child's physician specifies that the child will require in-patient hospitalization for more than fourteen days, the requirements of Section 502.7 of the Chapter 766 Regulations become applicable to the child's program delivery.

§ 105.04 Notification of Change in Ownership

The school shall provide notification in writing to the appropriate Regional Review Board and the Rate Setting Commission on any change in ownership of the school, prior to the actual change in ownership.

§ 105.05 Transfer of Approval

An approval of a school shall be transferable from one owner to another if the school provides to the appropriate Regional Review Board documentation that the school's facilities, personnel, licenses/permits, policies and program components remain the same as when originally approved. This documentation shall be provided to the Regional Review Board prior to actual change in ownership and the Regional Review Board shall confirm the transfer of approval, if the requirements of this section are met.



### § 105.06 Notification of Change in Chief Administrator

The school shall provide prior notification in writing to the appropriate Regional Review Board of any change in the person designated by the owner or the governing body as having responsibility for administration of the facility.

### § 105.07 Change in Location

The school shall provide prior written notification to the appropriate Regional Review Board, of any change in location of the school or expansion of the facility, so that the Regional Review Board can schedule a site-visit to the new location for approval of the new facility.

### § 105.08 Change in Policy, Program, Staffing, or Services

Prior to any substantial change in policy, program, staffing or services, the school shall give written notification to the Regional Review Board within a time which is reasonable to permit the Regional Review Board to take any steps necessary to determine whether any change in approval status is necessary.

## PART 106 -- AVAILABILITY OF GUIDELINES AND CHAPTER 766 REGULATIONS

### § 106.01 Availability of Guidelines and Chapter 766 Regulations

The school shall have a copy of these Guidelines and the Chapter 766 Regulations on the school premises and shall make them available to any person upon request.

## PART 107 -- EFFECTIVE DATE OF GUIDELINES; APPROVAL ISSUED UNDER PREVIOUS GUIDELINES; SEVERABILITY

### § 107.01 Effective Date

The effective date of these Guidelines is May 1, 1980.

### § 107.02 Approvals Issued Under Previous Guidelines

Any approval in effect prior to the effective date of these Guidelines shall remain in effect, unless suspended or revoked, until a new approval is issued or expressly refused under these Guidelines.

### § 107.03 Severability Clause

The provisions of these Guidelines are severable and should any section be found upon judicial review to exceed the authority of the State Board of Education and Department of Education, the remaining sections shall not be affected.

## SUBCHAPTER B -- ADMINISTRATION OF EDUCATIONAL COMPONENTS

Part 200 --- GENERAL ADMINISTRATIVE REQUIREMENTS  
FOR EDUCATIONAL COMPONENTS§ 200.01 Statement of Purpose

Each school shall keep and maintain a written statement identifying the school's philosophy, its goal and objectives, the characteristics and ages of children served, its intake procedures, termination procedures, and the process for re-entry to the public school, and the services provided. The school shall provide to each public school referring children, and the child's parent, upon request, a copy of this statement, and shall keep such statement current. Such statement shall also include the following overview:

- (a) a description of the personnel to be used and teacher/child ratios in classrooms, as required by Sections 302.05, 302.06 of these Guidelines;
- (b) a description of the curriculum offered, including the various academic and non-academic courses, as required by Section 302.03 of these Guidelines;
- (c) a description of the educational materials and facilities to be used, as required by Subchapter E of these Guidelines;
- (d) a description of the length of the school year and number of hours of daily instruction as required by Section 302.04 of these Guidelines.

§ 200.02 Non-Discrimination

The school shall not discriminate in providing services to children and their families on the basis of race, color, religion, national origin, sex, or handicap in accordance with Section 504 of the Rehabilitation Acts of 1973.

§ 200.03 Posting of Rate

The school shall post, in a conspicuous place, a copy of its rate(s) as established by the Rate Setting Commission.

§ 200.04 Evidence of Authority to Operate

Each applicant shall have documentary evidence of his source of authority to operate the school, including documents that fully and completely identify its ownership. Corporations, partnerships, or associations shall identify their officers and maintain a file which shall include where applicable the charter, partnership agreement, constitution, articles of organization and by-laws.



## § 200.05 Designation of Administrative Responsibility

Each school shall designate one person who shall have administrative responsibility over the operation of the school. Such a designated person may also serve as the educational administrator as required under Section 302.02 of these guidelines.

## § 200.06 Role of Administrator

The administrator designated under Section 302.02 or his designee shall at all times be on the premises of the school while in operation. All staff on duty shall know who is responsible for administration of the school at a given time, as delineated by the organizational table required by § 200.07.

## § 200.07 Organizational Table

Each school shall maintain and post conspicuously an organizational table showing the administrative structure of the school, including the lines of authority and staff assignments.

## § 200.08 Finances

The school shall keep and maintain an accurate record of receipts and expenditures.

## § 200.09 Research, Experimentation, Fund Raising, Publicity, Observations, Required Notifications and Authorizations

- (a) The school shall not conduct any of the following without prior written notification to and the prior written specific consent of the affected child's parent or guardian, and/or the child himself if 18 years of age or over. There should be co-consent by the child if 14 years of age or older: A written copy of the school's notification to parents and the parents' consent, if consent is granted, shall be sent to the public school responsible for the child.
  - (i) Research or experimentation.
  - (ii) Use of the child's or family's name, photographs, video tapes, for fund raising, publicity or any other purposes.
- (b) The school shall not allow, without the written general consent of the affected child's parent or guardian or the child himself/herself if 18 years of age or over, observations of children in the school by persons other than parents of the children; paid staff of the school; volunteers and student interns working in the school; authorized staff of the public school responsible for children in the school; authorized staff of Department or the Regional Review Board; or authorized State or Federal monitoring personnel.

- (c) The consent required under subsections (a) and (b) is not required for observation or data collection for purposes of evaluating or documenting the services provided by the program when carried out by persons having legal authority from the school, the Department, the Regional Review Board, the public school, the parents, and/or authorized State and Federal monitoring personnel, to perform such evaluation or documentation.
- (d) The approved school shall develop and maintain a written policy regarding the requirements of subsections (a), (b), and (c) above, and must make this policy available to parents and public schools, and submit the written policy as part of its application to the Regional Review Board.

§ 200.10 Discipline; Hazardous Treatment; Policy on Restraint and Exclusion/"Time Out" Procedures  
(In accordance with Department of Mental Health policy regarding seclusion and restraint)  
Suspensions

- (a) Discipline and guidance shall be consistent and based on an understanding of the individual needs and development of a child, and the educational plan. The school shall direct discipline to the goal of maximizing the growth and development of the children and for protecting the group and individuals within it, and shall insure that:
  - (1) No child shall be subjected to cruel, hazardous or abusive treatment, humiliation or verbal abuse.
  - (2) No child shall be subjected to corporal punishment.
  - (3) No child shall be denied food as a form of punishment.
  - (4) No child shall be secluded in a locked room.
- (b) Prior to the admission of a child, the school shall make available to the parents and the public school in writing, the school's policy for dealing with physically abusive behavior by a child to himself or others. This written policy shall be submitted to the Regional Review Board as part of the school's application. The policy shall specify (if applicable):
  - (1) The use of physical restraint, including:
    - (i) the possible reasons for physical restraint
    - (ii) the specific circumstances under which physical restraint would be employed.



- (iii) The types of physical restraint to be used;
  - (iv) The controls on abuse of such restraints.
- (2) The use of exclusion/"time out" of a child from the regular daily activities of the child's program, including:
  - (i) the possible reasons for exclusion/"time out";
  - (ii) the specific circumstances under which exclusion/"time out" would be employed;
  - (iii) the method of exclusion/"time out", including those alternate activities the child will be involved in as a substitute for the child's regular activities;
  - (iv) the controls on abuse of exclusion/"time out".
- (c) The school shall obtain a written parental consent upon admission of a child for the use of either physical restraint or exclusion/"time out" for an ongoing program of behavior management. Such consent is a prerequisite to the utilization of either physical restraint or exclusion/"time out" as an ongoing means of dealing with a child's behavior. If consent is granted, a copy of the signed general consent form shall be sent to the child's public school to be kept in the child's record.
- (d) In situations of extreme emergency, physical restraint may be applied immediately to prevent self-abuse or physical abuse that endangers the health or safety of the child or others without the parental consent of subsection (c) above.
- (e) When a child's behavior endangers the health and safety of himself or others, or causes a substantial disruption of the school program, a school may suspend the child from the total program. Suspensions shall have the following limits and requirements in accordance with Chapter 71B. "No school committee shall refuse a school age child with special needs admission to or continued attendance in public school without the prior written approval of the department. No child who is so refused shall be denied an alternative form of education approved by the department, as provided for in section ten, through a tutoring program at home, through enrollment in an institution operated by a state agency or through any other program which is approved for the child by the department."



- (1) Whenever a child is suspended, the school shall notify the parent(s) and the public school at the time of suspension. Within 24 hours, a written statement explaining the reason(s) for suspension shall follow this notification to the public school, the parent, and the Regional Review Board Chairperson.
- (2) No child under the age of 18 may be suspended and sent home unless a responsible adult is available to receive the child.
- (3) A child may be suspended for no more than three (3) consecutive school days or no more than five (5) non-consecutive school days per year.
- (4) If a child is suspended for more than three (3) consecutive school days or more than five (5) non-consecutive school days per year, the child's case manager from the school (as mentioned in § 302.8(a) shall meet with the public school liaison person and the parent within five (5) school days of the final suspension. At this meeting, the parties should consider alternative measures plus possible resolutions to those issues or charges concerning the child as well as the possibility of alternative placement. The child, if 14 years of age or over, shall be notified by the private school of his/her right to be present and participate in such meeting.

## PART 201 -- PERSONNEL POLICIES FOR DAY AND RESIDENTIAL SCHOOLS

### § 201.01 Personnel Policies

The school shall have available in writing its current personnel policies and practices. Such personnel policies shall include a description of:

- (a) criteria and procedures for hiring and suspension or dismissal of any staff person;
- (b) the procedures for handling staff complaints;
- (c) provisions for vacations, holidays, leaves, sick days, and any other benefits or requirements maintained by the school.

### § 201.02 Job Descriptions

The school shall have written job descriptions for all staff positions which shall be made available to staff for the positions which they fill.

### § 201.03 Salary Ranges

The school shall establish and have available in writing a salary range covering all positions and shall inform each employee of the salary range for his/her position or the procedure for determining the salary for his/her position.

### § 201.04 Evidence of Required Licensure, or Registration

The school shall obtain evidence that personnel are currently licensed, or registered as required by or where applicable laws or guidelines require licensure registration.

### § 201.05 Staff Orientation

The school shall provide orientation for all new staff to acquaint them with the school's philosophy, organization, program, practices and goals. The school shall describe in writing the school's program for staff orientation.

### § 201.06 Staff Training

- (a) The school shall provide a written plan for on-going staff development to include that each staff member providing direct services to children participates in a minimum of two hours of staff development each month.
- (b) The school shall describe in writing its arrangements with any professional training program, including a description of student intern responsibilities and supervision of student interns by the college and the school.

### § 201.07 Volunteers

The school shall describe in writing its plan for using volunteer services. Volunteers shall be chosen for their ability to meet the needs of the children enrolled and shall be provided appropriate orientation, training, and supervision, as determined by the Regional Review Board.

## PART 202 -- INFORMATION REQUIRED BY THE DEPARTMENT

### § 202.01 Availability of Information to the Department

Notwithstanding Section 302.10 of these guidelines, upon request of an employee of the Department or Regional Review Board member authorized by the Commissioner, the school shall make available to the Department any information required to be kept and maintained under these guidelines and any other information reasonably related to the requirements of these guidelines. Authorized employees of the Department or Regional Review Board members shall maintain the confidentiality of individual records.



SUBCHAPTER C -- PROGRAMS AND SERVICES  
FOR DAY AND RESIDENTIAL SCHOOLS

PART 300 -- ADMISSIONS AND TERMINATION  
REQUIREMENTS FOR DAY AND RESIDENTIAL SCHOOLS

§ 300.01 Requirements for Admissions

The school may enroll children under provisions of Chapter 766 only if approved to do so.

Prior to admission, the school shall provide to the parents and the public school, a written statement of its policies and procedures concerning:

- (a) the school's statement of purpose and services;
- (b) parent and student rights regarding student records;
- (c) health program to include procedures for providing emergency health care and/or hospitalization;
- (d) termination plans to include both emergency and planned terminations;

The school shall inform all parents of Massachusetts children who are enrolled by the parents themselves, that the parents are financially responsible for any bills incurred, unless a public school and the Regional Review Board authorizes the placement after a full TEAM evaluation.

§ 300.02 School Size

The school may not enroll more children than approved through the Regional Review Board unless a waiver of the provisions of these guidelines has been granted by the Department.

§ 300.03 Required Medical Examination

The school shall admit a child only if the public school or parent provides documentation of a complete physical examination from a physician no more than 12 months prior to admission. If examination is not possible prior to entry, the private school must make provisions for this to be done within one month of admission. The results of the examination shall be incorporated into the student's health record. Evidence of annual physicals is required to be in the student's medical records.

§ 300.04 Age Appropriate Immunizations

The school shall require from the public school or parent, a



written statement that each child has had age appropriate immunizations for diphtheria, pertussis, poliomyelitis, tetanus, mumps and measles as mandated by the Department of Public Health. In the absence of an emergency or epidemic of disease declared by the Department of Public Health, no child shall be required to have such immunization if his/her parents object thereto on the grounds that it conflicts with their religious beliefs or if the child's physician submits documentation that such a procedure is counter-indicated.

#### § 300.05 Interview

The director of the school or his designee shall be available prior to admission to the parents and the child and the public school upon request for an interview.

- (a) The interview should include provision to the parent and the child of the school's written statement of purpose and services; a statement as to parent and student rights regarding student records; a written description of the health program including the procedures for providing emergency health care; and the procedure for termination of a child as required by Section 300.07 of these guidelines.
- (b) The interview shall allow the opportunity for the child and parent to see the facilities, to meet staff members, and to meet other children enrolled prior to admission.

#### § 300.06 Placement Preparations For Residential Students

- (a) The school shall establish procedures to prepare the staff and children in the living unit for the new child's arrival and shall provide staff with appropriate information to receive the new child and assist in his/her adjustment.
- (b) Upon admission, the school shall designate and prepare sleeping quarters for the child and space for the admitted child's personal belongings.
- (c) The school shall assign at least one adult to help orient a newly admitted child to the facility and to the opportunities and programs available.

#### § 300.07 Termination

- (a) Upon admission of a child pursuant to Chapter 766 Regulations, the school shall ascertain the name of the person responsible for liaison work between the private school and the public school. The school should keep the public school liaison person informed

on the progress of the child, and that person shall be notified immediately if termination or discharge of the child is being discussed.

(b) In case of emergency termination:

(i) the school shall immediately notify the parents of the child and the public school responsible for the child's placement, and the Regional Review Board;

(ii) the school shall provide to the public school an opportunity to hold an emergency TEAM evaluation, according to Paragraph 333.1 of the Chapter 766 Regulations;

(iii) the school should, at the time of admission, make a commitment to the public school that it will try every available means to maintain the child's placement until the Administrator of Special Education has had time to search for an alternative placement;

(iv) emergency discharge, if questioned by parents or the public school in terms of appropriateness, shall be reviewed by the Regional Review Board.

(c) The school shall, except in the case of an emergency, prepare a written termination plan for the child, prior to the child's discharge or transfer and shall give thirty (30) school working days notice to the parent and Administrator of Special Education if the discharge will occur before the end of the school year or will interrupt a previously agreed upon length of stay as set forth in the Individualized Educational Plan.

(i) The plan shall specify the child's needs and progress in meeting the educational goals set forth and shall provide recommendations for follow-up services.

(ii) The school shall explain termination procedures to the child, the child's parents, and the Administrator of Special Education who placed the child and shall provide a copy of the plan to the parents and Administrator of Special Education.

(d) In the case of an unplanned discharge which shall mean the removal by a parent or a responsible agency, the school shall within seven days provide a written discharge



summary which shall explain the circumstances of the unplanned discharge. This summary will be made available to the Regional Review Board, the parent and the public school.

## PART 301 -- REQUIREMENTS FOR SERVICES FOR DAY AND RESIDENTIAL SCHOOLS

### § 301.01 Parent Involvement

The school shall permit and encourage parents to visit the school and their child's classroom while school is in session and the child present.

- (a) The school shall have a written plan for involving parents, and shall have a Parent's Advisory Group. The Parent's Advisory Group will be allowed to participate in the operation of the school as it applies to the education, health and safety of the students in the program.
- (b) The school shall make the professional staff (i.e. teachers, counselors, social workers) available for individual conferences with parents upon parental request at a reasonable time.
- (c) The school shall develop a visiting plan and encourage the parents continued interaction with their child in accordance with the provisions of the educational plan.
- (d) The school shall assist the parents in planning for their child's return home or transfer to another community environment when appropriate.

### § 301.02 Health Care Policy

- (a) The school shall have a licensed physician available for consultation.
- (b) The school shall have a registered nurse available as deemed appropriate by the Regional Review Board depending upon the health care needs of the school population.
- (c) The school shall have either a physician or a registered nurse who shall aid in the development of the health care policies for the school.
- (d) The school shall have a written health care policy and procedures manual which shall be made available to all staff. The health care manual shall be approved by the health care consultant and shall include:



- (i) the name, address and telephone number of the physician or registered nurse available for consultation;
  - (ii) a plan for the care of mildly ill children at the school, including the designation of a quiet area for the care of such children;
  - (iii) the policy and procedures for first aid as required in (e) below;
  - (iv) the procedure for emergency care as required in (f) below;
  - (v) a description of procedures and policies regarding the administration of medication as required in (g) below;
  - (vi) a plan for protecting a child from exposure to foods, chemicals, or other materials to which they are allergic, as stated by their physician/medical assessment.
  - (vii) the procedure for reporting suspected child abuse or neglect to the Department of Public Welfare under General Law Chapter 119, Section 51A;
  - (viii) a description of preventive health policies as required in (h) below.
- (e) The school shall provide for first aid measures. The first aid procedures and policies shall be written and shall appear in the health care manual. First aid procedures and policies shall include the following:
- (i) the provision for training of all direct service staff in emergency first aid procedures by a certified instructor;
  - (ii) the procedures for providing first aid measures shall be kept with the first aid equipment;
  - (iii) the provision for adequate first aid supplies, including but not limited to bandaids, gauze, adhesive tape, hydrogen peroxide or other cleaning solutions, which shall be stored in a secure place, out of the reach of children;
  - (iv) a procedure for informing parents of any first aid administered to their child, and which shall immediately inform them of any injury or illness which required care other than first aid;

- (f) The school shall have a written policy and procedure for use in emergency situations. The emergency procedures shall be posted by all telephones that may be used in case of emergency and shall appear in the health care manual. The procedures shall contain the following:
  - (i) The telephone number of the fire department, police station, poison prevention center, and ambulance service serving the school;
  - (ii) the name and telephone number of any hospital where children will be taken in emergencies;
  - (iii) the procedures to be followed in the case of illness or emergency, including transportation methods and notification of parent;
  - (iv) the procedures to be followed in the case of illness or emergency if the parent cannot be reached;
  - (v) the procedures to be followed in event of fire or other emergency;
- (g) The school shall have written policy regarding the administration of medication, including the following:
  - (i) no medication shall be administered to a child without written parental authorization;
  - (ii) the school shall not administer prescription medication to a child without the written order of a physician prescribing the medication for that child. The school shall be responsible for the training of staff, by a physician or registered nurse, in the administration of medication.
  - (iii) any change of medication or dosage must be authorized by a physician's new order as per (ii) above;
  - (iv) the school shall keep a written record of the administration of prescribed medication to children;
  - (v) the school shall keep all medicine labeled with the child's name, the name of the drug, and the directions for its administration, and shall

dispose of or return to the parent any unused medication. All medication on the school premises must be kept in a locked cabinet; medications must be delivered to the school by a responsible adult in a container labelled by the physician or pharmacist;

- (vi) the school shall have a written policy regarding the amount of medication to be kept on the premises at any one time for each student receiving medication;
  - (vii) a review of medications administered shall be incorporated into the quarterly periodic review;
- (h) The school shall provide for preventive health care measures as follows. These policies shall appear in the health care manual.
- (i) the school shall require that each child receive a comprehensive medical examination annually. The school shall require a written report from the physician(s) giving the results of the examination and any recommendation and/or modification of the child's activity;
  - (ii) the school shall, in cooperation with the child's public school, develop a plan to assure that annual vision and hearing screenings are conducted in accordance with Paragraph 308.0 of the Chapter 766 Regulations, and the requirements of the Department of Public Health;
  - (iii) the school shall have a policy and procedure for assuring that no child or staff member is attending school who has a communicable disease and to notify all parents when any reportable communicable disease has been introduced into the school;
  - (iv) the school shall provide a secure place to keep all toxic substances, medications, sharp objects and matches out of the reach of the children;
  - (v) the school shall provide or arrange for the provision of family planning information with the permission of the parent(s).



- (vi) the school shall make arrangements for an annual dental examination for each child placed under Chapter 766.

#### § 301.03 Consent for Medical Treatment

The school shall keep consents for medical treatment on file. The consent must be signed by the parent or legal guardian to be updated annually. There should be consent forms for emergency medical treatment as authorized by family physician. Residential schools shall have on file a form for treatment of acute medical problems.

#### § 301.04 Medical Treatment Waiver

The school shall not require any child to receive medical treatment when the parents of such child, or the child him/herself is over 18 years of age, object thereto on the ground that such treatment conflicts with the tenets and practice of a religious denomination of which the parent or child is an adherent or member.

#### § 301.05 Social, Psychological, Psychiatric, and Other Services

The school shall have a written plan for providing social, psychological, psychiatric, nursing and vocational services, peripatology, and speech, physical and occupational therapy adequate to meet the goals of the educational plans for those children enrolled.

#### § 301.06 Recreational Services

The school shall describe in writing its plan for meeting the recreational needs of the children served, including the use of community recreational resources where appropriate.

- (a) The school shall provide or arrange for individual and group recreational programs appropriate to the age, interests and needs of each child.
- (b) The school shall provide a recreational program which provides for free, unplanned time for children to pursue individual interests, with supervision as required for the protection of the child.
- (c) The school shall assign responsibility for the recreation program to a designated staff person(s).

#### R § 301.07 Religious Services

The school shall make opportunities available for children to voluntarily participate in religious services, in accordance with the child's individual preferences.

R      § 301.08 Case Management

The school shall have a procedure for assuring that it is informed by a parent or guardian of any changes in a child's legal status and of the results of all judicial and administrative proceedings concerning the child; and coordinate the overall program of the child.

PART 302 -- EDUCATIONAL PROGRAMS FOR DAY AND  
RESIDENTIAL SCHOOLS§ 302.01 General Requirement

The school shall offer curriculum instruction and facilities which are appropriate to the child's needs as described in the child's educational plan.

§ 302.02 Designation of Educational Administrator

The school shall designate an educational administrator to carry out the educational program of the school and assure that these requirements are fulfilled. The designated administrator may be the same person required under Section 200.05. As of September 1, 1979 anyone hired as the educational administrator must be certified in the major area of the children's special needs for which the school conducts an educational program. The person serving in this capacity prior to September 1, 1979 is acceptable for the purposes of these Guidelines.

§ 302.03 Requirements for Curriculum

The school shall offer instruction or readiness activities of the appropriate level for the type of children served based upon the child's Individualized Educational Plan in the following areas:

- (a) Reading, writing, language usage, or communication skills;
- (b) mathematics, or quantitative skills and concepts;
- (c) social studies, or history;
- (d) science or nature studies;
- (e) physical education, and adaptive physical education
- (f) music, art, crafts, home economics, health education, or pre-vocational activities and vocational activities;
- (g) self help skills; Activities of Daily Living (ADL)



#### § 302.04 Daily Duration and Number of Days Provided

The school shall provide a minimum of five hours of instruction daily and shall be conducted for at least the number of days in the public school year as determined by the Board of Education.

#### § 302.05 Teacher/Student Ratios

The school shall provide one teacher for every eight or fewer special needs children for instruction, or one teacher for every twelve or fewer special needs children if a teacher's aide is also assigned to the classroom group, or that teacher/student ratio stated in the child's educational.

#### § 302.06 Number of Teachers and Qualifications

Teachers and teacher's aides shall be employed in adequate numbers to meet the needs of the special needs children enrolled. Such teachers shall have appropriate prior education and experience as follows:

- (a) As of September 1, 1979 all instructional staff hired must be certified, when applicable, in the major area of children's special needs for which the school conducts an educational component in accordance with the Chapter 766 regulations. The persons serving in these capacities prior to September 1, 1979 are acceptable for purposes of these Guidelines.
- (b) Support staff such as vocational teachers, psychologists, social workers etc., must be appropriately certified in their professional areas.
- (c) All school personnel shall provide, before employment, evidence of a negative tuberculin test or x-ray performed within three months of the date of initiation of employment and written certification from a physician that they are free from communicable disease and indicating any limitations that they may have in working with children due to health problems. The tuberculin test or x-ray shall be repeated every three years and certification of a negative result provided to the school by the school personnel.
- (d) Individuals acting in the capacity of teachers or support staff who are receiving under-graduate credit for the intern/teaching experience may not be considered as staff of the facility for the purpose of meeting required ratios. Student interns receiving graduate level credit and serving full-time for the academic year may be considered staff, providing that adequate supervision is documented. Two graduate student interns serving half-time for the academic year may be considered as one staff position.



§ 302.07 Teacher Supervision, Training, and Evaluation

- (a) The school shall provide a minimum of two hours a month of formal in-service training to all personnel providing instructional services to children. Said formal in-service training shall be appropriate to the needs of the facility, publicly stated in advance and subject to the review of the Regional Review Board. Formal academic training of individuals may not be used in lieu of this required in-service training component. However, collaboration between institutions of higher education and private schools is permitted.
- (b) The performance of all teachers shall be supervised. Teachers shall be formally evaluated annually by the appropriate educational administrator and such evaluations shall be maintained in writing in the personnel records.

§ 302.08 Educational Plans and Reviews

The school shall carry out each element of the educational plan specified by the public school for each child after consultation with the TEAM and Administrator of Special Education.

- (a) The school shall assign an educational case manager for each child. The case manager has the responsibility to maintain regular liaison with the public school and the parents to inform them about the child's progress and shall assure that the provisions of this section are carried out.
- (b) The school shall have on file a current educational plan for each child as written by the TEAM and Administrator of Special Education. If the private school is having difficulty obtaining an individualized educational plan, the school should contact the appropriate Regional Review Board.
- (c) The school shall, at least every three months, submit to the child's parents and the Administrator of Special Education a written report of the child's progress toward achieving educational criteria set by the TEAM and the Administrator of Special Education for placement of the child in a less restrictive program prototype, including behaviorally specific written reports on such progress. The school shall inform, in writing, the child's parents and the Administrator of Special Education when such child has met the criteria. The personnel involved in such a review shall include teachers responsible for carrying out the day-to-day educational program for the child. The behaviorally specific reports shall

indicate compliance with the educational plan.  
(According to § 333.1 of the Chapter 766 Regulations.)

- (d) The school shall inform the Administrator of Special Education when a modification in an educational plan is required and shall carry out jointly agreed-upon modification. Prior to any modification in an educational plan the school shall have the consent of the parents, the Evaluation Team, and the Administrator of Special Education, and shall be in writing, with a copy attached to the educational plan in the child's record.

#### § 302.09 Students Records

Individual student records shall be maintained for each child. The records shall be legible, dated, signed by the individual making an entry, and continually updated. The records shall contain the following information:

- (a) A face sheet which identifies the child by the following information, where available:
  - (i) the name, date of admission, date of birth and primary language of child if other than English;
  - (ii) the parent's names, addresses, telephone numbers, and marital status;
  - (iii) name, address, and telephone number of a person other than the parent to be contacted in an emergency when the parent cannot be reached;
  - (iv) sex, race, height, color of eyes, color of hair, and identifying marks;
  - (v) any medical condition, including any allergies significant to the child's well-being, date of last physical examination;
  - (vi) responsible public school;
  - (vii) date of discharge and child's location or school to which discharged.
- (b) a copy of the educational plan provided by the TEAM, the name of the educational case manager and the school's resources for carrying out each element of the child's plan required by Section 302.08(a) and (b) of these Guidelines;



- (c) a copy of the periodic progress reports and any modifications of the educational plan as required by Section 302.08(c) and (d) of these Guidelines;
- (d) a copy of the termination or discharge plan as required by Section 300.07 of these Guidelines;
- (e) health records including reports and/or documentation of physical examinations to include dates and findings on the following: allergies, screening test results, ongoing medical care, first aid and emergency care, administration of medications and communications to and from parents;
- (f) parental consent for special activities and for emergency medical treatment;
- (g) the results of any evaluations and/or assessments conducted by the school or received from the public school or other appropriate agencies;
- (h) pertinent correspondence concerning the child.

§ 302.10 Storage and Confidentiality of Education Records

The school shall have a written policy establishing procedures which govern the access to, duplication of, and dissemination of information contained in children's educational records which shall be consistent with the Department of Education's Regulations pertaining to Students Records Regulations.

- (a) Children's records shall be secured against loss, defacement, tampering or unauthorized use.
- (b) Upon termination or discharge of a child from a school, the child's educational records shall be returned to the public school responsible for placing the child.
- (c) Parents and students shall have the same rights regarding access to, amendment of, and dissemination to third parties of student records maintained by the school as are provided with regard to public school student records by the Regulations pertaining to Student Records; and authorized school personnel from the responsible public school, and authorized representatives of the Department, shall have the right of access to those records as is provided by those regulations with regard to public school student records.



### § 302.11 Accessibility

Copies of educational plans and emergency medical information shall be stored within easy access of all appropriate staff so that they are available as necessary.

## PART 303 -- TRANSPORTATION PROVIDED BY DAY AND RESIDENTIAL SCHOOLS

### § 303.01 Written Plan

The school shall describe in writing their plans for the transportation of children, including the names of persons authorized to transport children and a plan for transportation of children in an emergency. Such plans shall include arrangements for transportation included in the child's educational plan.

### § 303.02 Vehicle and Driver Requirements

- (a) The school shall ensure that any vehicle used for transportation, and the drivers thereof, conform to the appropriate state and federal requirements pertaining to equipment/licensing.
- (b) The school shall ensure that any vehicles transporting nine children or more conform to all applicable Massachusetts School Bus Laws (Chapter 90 of the General Laws), and that drivers of these buses possess the necessary licensing to drive such vehicles.
- (c) The school shall ensure that any vehicles transporting eight children or less conform to all applicable standards established for Non-Class II vehicles (Chapter 90 of the General Laws).

### § 303.03 Insurance

The school shall use no school-owned, contracted or staff member's vehicle to transport children unless it has the following minimum amounts of liability insurance in accordance with Section 4 of Chapter 40 of the General Laws.

- (a) Injury per person: \$15,000
- (b) Injury per accident: \$200,000

### § 303.04 Transportation Safety

The school shall not allow the number of children riding in a contracted, school-owned or staff member's vehicle for a school-related activity at any time to exceed the number of seats therein, and operators shall not drive vehicles unless all children are seated.

- (a) Suitable safety carriers, restraints or seat belts shall be provided for and utilized by each child, driver and attendant. All car restraints shall meet the 1975 Standards of Physicians for Automotive Safety Consumer Union guidelines and shall be crash tested and child approved.
- (b) When more than nine children are being transported, an attendant other than the driver is required.
- (c) When transporting children, any sharp, heavy or potentially dangerous objects that are transported shall be secured.
- (d) The school shall ascertain the nature of any need or problem of a child which may cause difficulty during transportation such as seizures, a tendency toward motion sickness, or disabilities, and shall communicate such information to the operator of any vehicle transporting children.
- (e) Children shall be released by the driver of a vehicle only to designated persons authorized to receive such children.
- (f) The school shall provide an in-service training program for operators of vehicles carrying special needs children to acquaint such operators with the needs of children they are transporting and to equip them to meet those needs.

#### PART 304 -- WATER SAFETY

##### § 304.01 Written Plan

The school shall describe in writing a plan;

- (a) For insuring the students' safety when participating in recreational and/or therapeutic water activities.
- (b) A system to secure water recreational areas when not in use and to prevent unauthorized use by students.

##### § 304.02 Personnel Requirements

The school is responsible to provide personnel training in water safety whenever the students are participating in recreational and/or therapeutic water activities.



- (a) The student/staff ratio must be adequate to insure the safety of all students. The ratio will vary based on the severity of the needs of the population being served.
- (b) At no time will students be allowed to participate in any water activities without adequate supervision by trained personnel.

SUBCHAPTER D - DAILY CARE OF CHILDREN IN  
DAY AND RESIDENTIAL SCHOOLS

PART 400 -- SUPERVISION OF CHILDREN

§ 400.01 Child-Staff Ratios

The school shall at all times provide appropriate supervision to children enrolled while engaged in school-related activities on or off school grounds.

- (a) The school shall establish a written description of the staffing of the facility and shall include provisions assuring that child care staff is available at all times to the children served.
- (b) The school shall assure a staff-child ratio appropriate to the age, capabilities, needs, and educational plans of children in the facility, and sufficient to carry out all provisions in these Guidelines.
- (c) The Regional Review Board has the authority to determine the appropriateness of the child-staff ratio.

§ 400.02 Supervision and Training of Child Care Staff

The school shall make child care staff directly responsible to a staff person who has supervisory or administrative responsibility and who has experience suitable to the goals of the program. The school shall require child care staff to have regular, scheduled conferences with the child care supervisor regarding children's needs and methods of meeting those needs.

R § 400.03 Role of Child Care Staff

The school shall be responsible for assuring that child care staff assist children in the activities of daily living and in the development of self help and social skills, and in the development of positive human relationships, including:

- (a) promoting in each child a sense of security, belonging, and self-worth;



- (b) providing emotional support and guidance to children as appropriate.

R      § 400.04    Emergency Assistance to Children

The school shall provide a telephone number to call and a system for emergency assistance to children while they are away from the facility. There should be provisions for internal controls to provide for immediate backup in case of emergency. (i.e. lights out)

PART 401 -- CLOTHING, GROOMING, AND HYGIENE

R      § 401.01    Clothing

The school shall assure through its intake procedures that parents or guardians provide each child with adequate and seasonable clothing as required for health and comfort. The school shall have a plan for the provision of clothing to children in the custody of the Department of Public Welfare or the Division of Youth Services, when such agencies provide funding.

- (a) The school shall not require any child to wear a uniform which identifies the child as a resident of a particular facility.
- (b) Each child shall have his or her own clothing identified for personal use, and such identification shall be inconspicuous.
- (c) For children whose clothing is to be provided by a state agency, the school shall provide children the opportunity to participate in the selection of their own clothing.

R      § 401.02    Grooming and Hygiene

- (a) The school shall assure through its intake procedures that parents or guardians provide necessary articles for personal grooming and hygiene to each child.
- (b) The school shall have a plan for providing each child in the custody of a state agency, with his or her own articles necessary for personal grooming and hygiene.
- (c) The school shall assist each child in learning good grooming practices.
- (d) The school shall provide each child the opportunity to have a daily shower or tub bath with due regard for privacy.
  - (i) The school shall give children assistance or supervision in bathing if they are unable to perform this function by themselves.

- (e) The school shall encourage each child to brush his or her teeth at least twice daily.
- (f) The school shall make arrangements for hair cutting and styling, in accordance with the wishes of the child and parent(s) or guardian consistent with good health practices.
- (g) The school shall conduct a toilet training program for those children who need toilet training.

PART 402 -- FOOD AND NUTRITION IN  
DAY AND RESIDENTIAL SCHOOLS

R     §   402.01   Nutrition

The school shall provide a nourishing well-balanced diet to all children.

- (a) The school shall provide at least three meals daily constituting a nutritionally adequate diet.
- (b) The school shall prepare and serve meals in a manner and amount as appropriate to the nutritional needs of each child, including special dietary needs.
- (c) No child shall be denied a meal for any reason other than medical prescriptions or clinical plan. Meals shall not be withheld as a form of punishment under any circumstances.
- (d) The school shall encourage children to eat a well-balanced diet, but no child shall be force-fed or otherwise coerced to eat against his or her will except where medically prescribed.
- (e) The school shall serve to children meals which are substantially the same as those served staff, unless age differences or special dietary needs require differences in diet.
- (f) The school shall prepare tasteful meals and shall serve meals in an appetizing manner.
- (g) The school shall allow children to eat at a reasonable, leisurely rate.
- (h) Staff shall be present to assure that each child receives adequate amounts and variety of food.
- (i) Menus shall be developed by staff possessing an understanding of the nutritional needs of children.

#### § 402.02 Storage of Toxic Substances

- (a) The school shall store poisonous cleaning substances, or other toxic substances in areas which are securely protected from possible ingestion by staff or children.
- (b) The school shall assure that all toxic substances are labelled as to contents and antidote.
- (c) The school shall post the phone number of the nearest poison center.

#### § 402.03 Written Menus

The school which serves meals to children shall prepare written menus for each week and shall maintain copies of menu plans for typical weeks.

#### § 402.04 Meal Schedules

The school shall provide or arrange for nutritional mid-morning snacks for children and shall regularly schedule a mid-day meal where appropriate.

#### § 402.05 Nutritional Requirements

- (a) The school which serves meals and snacks to children shall provide for one-third to one-half of the daily nutritional needs of children in accordance with the "Food and Nutrition Board, National Academy of Sciences National Research Council Recommended Dietary Allowances" in one regular meal and one or more snacks;
- (b) The school shall provide to parents when appropriate, in writing, a list of nutritional items which should be included in a snack lunch when parents are required to provide meals and snacks. The school shall have a method for providing a nutritious meal and snack in accordance with this section to a child who should arrive without one or whose parent has provided an inappropriate meal or snack.

#### § 402.06 Written Plan and Designated Person

The school shall have a written plan which describes the methods for purchase, storage, preparation and serving of food and identifies one person responsible for the food program as required in Section 402.01.



§ 402.07 Requirements for Food Preparation, Storage and Services

The school shall store, prepare, and serve all food in a manner as to be clean, wholesome, free from spoilage and safe for human consumption.

- (a) The school shall provide refrigeration and storage for food at not more than forty-five (45) degrees Fahrenheit for food requiring refrigeration.
- (b) The school shall store all foods in clean, covered containers.
- (c) The school shall properly wash and sanitize all bottles, utensils, and dishes.
- (d) The school shall dispose of food, milk or formula unfinished by a child.
- (e) The school shall prepare tasteful meals and serve them in a manner which makes them appetizing.

PART 403 -- TOILETING PROCEDURES FOR  
DAY AND RESIDENTIAL SCHOOLS

§ 403.01 Written Plan

The school which enrolls children who are incontinent shall have a written plan describing procedures for regular toileting and diapering of children and for disposal or cleaning of soiled clothing and diapers.

§ 403.02 Toilet Training

The school shall toilet train children requiring such training in accordance with the plan requested by the parent or the educational plan for the child and consonant with the child's physical and emotional abilities.

§ 403.03 Diapering Requirements

The school shall change the diapers of children regularly when soiled or wet and wash and dry each child with individual washing materials during each diaper change.

- (a) The school shall maintain a supply of clean, dry diapers adequate to meet the needs of the children.
- (b) The school shall use either a disposable covering on the changing surface which shall be changed after each use, or a surface which can be disinfected properly.

#### § 403.04 Clothing Requirements

The school which enrolls children who are incontinent shall keep on hand extra clean and dry indoor clothing to change a child's clothing which becomes soiled or wet and shall, as soon as possible, change the clothing of any children who become soiled or wet. The school shall store clothing or diapers which are a potential health hazard in a covered water-proof container unless they can be sanitized immediately after removal from the child.

#### PART 404 -- VISITING, MAIL, AND TELEPHONES

#### R § 404.01 Visiting Policy

The school shall have a written policy pertaining to visiting and other forms of communication with family, friends, and other community persons.

- (a) Such policies shall be developed with the goal of encouraging healthy family relationships, maximizing the individual child's growth and development, and protecting the children, staff, and programs from unreasonable intrusions.
- (b) Such policies shall be available to children, staff and parents or guardians.
- (c) The school shall provide opportunities and encourage children to visit with parents or siblings unless such visits have been limited by court order or by the child's individual educational plan.
- (d) The school shall provide opportunities for visits with relatives and friends on the premises, with reasonable privacy, in accordance with the child's individual educational plan.
- (e) The school shall establish visiting hours which meet the needs of the children and their parents.
- (f) The school shall formulate procedures for children visiting outside the facility, including:
  - (i) a method for recording the child's location, the duration of the visit, and the name and address of the person responsible for the child while absent from the school;
  - (ii) a method for recording the child's return and a procedure for action if a child fails to return.

## § 404.02 Mailing and Telephones

Telephone and written communications shall not be prohibited.

- (a) It shall be each child's right to open and send his/her own mail unread by staff, unless the child's individual educational plan specifies reasons and circumstances where this would be inappropriate.
- (b) The school shall make available a telephone (pay or free) to children.

## PART 405 -- RUNAWAYS

### § 405.01 Procedures for Handling Runaways

The school shall have a written plan detailing its procedures for handling situations involving children who have run away. All personnel will be familiar with the procedures for handling these situations, and the persons or agencies to be notified.

## SUBCHAPTER E - PHYSICAL FACILITY AND EQUIPMENT FOR DAY AND RESIDENTIAL SCHOOLS

## PART 500 -- SAFETY REQUIREMENTS AND INSPECTIONS FOR PRIVATE SCHOOLS

Out-of-state private schools shall have applicable inspections for the State in which they are located.

### § 500.01 Safety Inspection

The school shall have an appropriate certificate of inspection from the Department of Public Safety or the local building inspector for each building utilized by children.

### § 500.02 Fire Inspection

The school shall have an appropriate certificate of inspection from the local fire marshall.

### § 500.03 Fire Safety Requirements

The school shall have a written plan for evacuation of all buildings. The evacuation plan shall be posted in each building. As per Section 501.02(f) (v) the school shall conduct fire drills twice yearly in accordance with the above written plan.

### § 500.04 Meals Inspection

The school shall provide evidence of inspection from the local health department and compliance with Article X of the State Sanitary Code if the center provides hot meals for thirteen or more children.



### § 500.05 Water

The school shall have any private well or water source inspected and approved by the local board of health or health department. Outdoor swimming areas shall be tested for water quality.

### § 500.06 Lead Paint Requirements and Lead Paint Inspection

A school enrolling children aged six years and under shall assure that paint used in the school is lead free and shall do the following:

- (a) The school shall remove or make inaccessible to children all paint or plaster containing lead four feet from the bottom of interior or exterior surfaces and shall remove any peeling or falling paint or plaster containing lead.
- (b) The school shall request the state or local department of health to test for and certify that the center is free of lead paint.

### R § 500.07 Building Code

- (a) Each facility defined as a "group residence" under Public Safety Law or by regulations of the State Building Code Commission, shall meet the building codes applicable to "group residence" under Public Safety Law or by regulations of the State Building Code Commission Act.
- (b) Each facility not defined as a "group residence" under Public Safety Law or by regulations of the Building Code Commission shall meet the building code applicable to the facility.

### § 500.08 General Health and Safety Inspections

The school shall obtain for the facility (all buildings) certification by the local Board of Health or Health Department and shall keep written reports of inspection on file. The school shall be in compliance with laws applicable to:

- (a) water supply;
- (b) sewage system and garbage disposal;
- (c) lighting and ventilation;
- (d) laundry;
- (e) food storage and preparation.

## PART 501 -- SAFETY PROGRAM

R § 501.01 Emergencies

The school shall establish a written plan detailing procedures for meeting potential emergencies. The plan shall include procedures for:

- (a) the assignment of personnel to specific tasks and responsibilities in emergency situations;
- (b) instructions for the use of alarm systems and signals;
- (c) systems for notification of appropriate persons;
- (d) specification of evacuation routes and procedures.

§ 501.02 Posting of Procedures

The school shall post the plans and procedures at suitable locations throughout the school, and staff shall familiarize themselves with them.

§ 501.03 Drills in Emergency Procedures

The school shall conduct emergency drills at least quarterly under varied conditions in order to:

- (a) assure that all personnel on all shifts are trained to perform assigned tasks;
- (b) assure that all personnel on all shifts are familiar with the use of the fire-fighting equipment in the facility;
- (c) evaluate the effectiveness of emergency plans and procedures.

§ 501.04 Evacuation

The school shall conduct evacuation drills which include actual evacuation of children to safe areas during at least one drill each year on each shift.

- (a) The school shall make special provisions for the evacuation of any mobility impaired children in the facility.
- (b) The school shall take special care to help all children to understand the nature of such drills.

### § 501.05 Accidents

The school shall maintain an active safety program including records and investigation of all accidents and recommendations for prevention.

## PART 502 -- LIVING AREAS

### R § 502.01 Arrangement of Living Areas

The school shall design the living areas to simulate the functional arrangements of a home and to encourage a personalized atmosphere for small groups of children, unless the school can demonstrate that another arrangement is necessary to serve the particular special needs of the children enrolled in the school.

### § 502.02 Furnishings

The school shall provide furniture and furnishings which are safe, appropriate, comfortable, and home-like.

### § 502.03 Bedrooms

The school shall provide bedrooms which:

- (a) have direct outside ventilation;
- (b) provide at least fifty (50) square feet per child in multiple sleeping rooms, and not less than seventy (70) square feet in single rooms;
- (c) have at least one window;
- (d) have a means for children to mount pictures on bedroom walls (for example, by means of pegboard or cork strips) and to have other decorations.

### § 502.04 Money and Other Valuables

The school shall provide each child with appropriate individual furniture, and an individual closet (or a designated section of a closet) with clothes racks and shelves.

### § 502.05 Individual Furniture

The school shall provide each child with appropriate individual furniture, and an individual closet (or a designated section of a closet) with clothes racks and shelves.

### § 502.06 Storage Areas

The school shall provide accessible storage areas for personal possessions, such as toys, books, prosthetic equipment, pictures, games, radios, arts and crafts materials, toiletries, jewelry, letters, and other articles and equipment.



## § 502.07 Common Areas

In addition to sleeping quarters and space designated for specific activities, the school shall provide children with a lounge, living room, or family room available for their use.

### PART 503 -- BATHING AND TOILET FACILITIES

#### R § 503.01 Equipment and Facilities

The school shall provide adequate numbers of toilet areas for children being served, and shall locate and equip toilet areas so as to facilitate maximum self-help by children. The school shall provide toilet and bathing equipment and facilities in accordance with the following provisions.

- (a) The school shall provide toilets, which allow for individual privacy (with partitions and doors), unless inconsistent with a toilet training program.
- (b) The school shall provide bathing and toileting fixtures which are specially equipped, if used by the physically handicapped.
- (c) The school shall provide at least one toilet for each six (6) residents, easily accessible to children in sleeping quarters.
- (d) The school shall provide at least one wash basin for each six (6) residents.
- (e) The school shall provide at least one tub or shower for each six (6) residents.
- (f) The school shall have available hot and cold running water for all wash basins, tubs, and showers.
- (g) The school shall provide mirrors at convenient heights for use by all children.
- (h) The school shall provide a place for storage of toiletries and for hanging towels and washcloths.

### PART 504 -- SPACE AND GENERAL REQUIREMENTS FOR PHYSICAL FACILITY FOR DAY AND RESIDENTIAL SCHOOLS

#### § 504.01 Indoor Space

The school shall have a minimum of thirty-five square feet activity space per child exclusive of hallways, lockers, and toilet rooms, isolation rooms, kitchen, closets, offices or areas regularly used for other purposes and shall meet the following requirements.

- (a) Floors of rooms used by children shall be clean, unslippery, smooth and free from cracks, splinters and sharp or protruding objects and other safety hazards, and those in direct contact with the ground shall have flooring impenetrable to water;
- (b) Ceilings and walls shall be maintained in good repair, and shall be clean and free from sharp or protruding objects and other safety hazards;
- (c) All steam and hot water pipes and radiators shall be protected by permanent screen guards, insulations, or any other suitable device which prevents children from coming in contact with them;
- (d) Room temperatures in rooms occupied by children shall be maintained at not less than sixty-eight degrees Fahrenheit at zero Fahrenheit outside and at not more than the outside temperature when the outside temperature is above eighty degrees Fahrenheit (measured at two feet from the outside walls and twenty inches above floor level).
- (e) There shall be designated space separate from classroom areas for administrative duties and staff or parent conferences.

#### § 504.02 Outdoor Space

The school shall maintain or have access to an outdoor play area of at least seventy-five square feet per child using it at any one time. The average width of such a play area shall not be less than eight feet and shall conform to the following requirements:

- (a) Some part of the outdoor play area shall be accessible to direct sunlight;
- (b) It shall be free from hazards (e.g. hidden corners, unprotected polls, wells, cesspools, and steps); poisonous plants, (e.g. poison oak or ivy); and dangerous machinery or tools;
- (c) It shall be fenced with a non-climbable barrier at least five feet high if any part is adjacent to a highway, on the roof, a porch or other dangerous area.
- (d) It shall not be covered with a dangerously harsh or abrasive material.



PART 505 -- DINING FACILITIES AND EQUIPMENT  
FOR DAY AND RESIDENTIAL SCHOOLS

§ 505.01 Dining Rooms or Areas

The school shall maintain dining rooms or areas which are sufficiently large to accommodate tables and seats for persons eating in an uncrowded manner and shall be clean, well-lighted and ventilated.

§ 505.02 Dining Furniture

The school shall provide tables and chairs for use by children while dining which are of a type, size, and design appropriate to the ages and needs of the children. When feeding tables or high chairs are used, they shall be designed to prevent children from falling or slipping.

§ 505.03 Dining Utensils

The school shall provide eating and drinking utensils which are appropriate to the age and needs of the children.

- (a) Eating and drinking utensils shall be free from defects, cracks and chips.
- (b) Disposable cups and plates may be used but if plastic silverware is used, it shall be heavy duty and dishwasher proof.
- (c) All reuseable eating and drinking utensils shall be thoroughly washed and sanitized before reuse.

§ 505.04 Drinking Water and Cups

The school shall provide a source of sanitary drinking water located in or convenient to rooms occupied by children. When non-disposable cups are used for drinking water, they shall be washed and sanitized after each use.

PART 506 -- BATHROOM FACILITIES FOR PRIVATE SCHOOLS

§ 506.01 Toilets and Wash Basins

The school shall maintain one toilet and washbasin for every fourteen children in one or more well-ventilated bathrooms or state why a lower ratio meets the needs of the school.

- (a) When adult toilets and washbasins are used, the school shall provide non-tippable stands to permit access by those children who are able to use them.



- (b) In addition to toilets, portable "potty-chairs" may be utilized in the bathroom or separate area for children unable to use toilets. If a separate area is used, it must be a private area.
- (c) If cloth diapers are used, a flush sink or toilet for rinsing diapers and hand washing facility must be provided as needed by physically handicapped children.

#### § 506.02 Water Temperature

The school shall provide both hot and cold running water in washbasins. For preschool and severely disabled children the water temperature shall be no more than one hundred twenty degrees Fahrenheit. The temperature can be controlled through regulation of the boiler or a mixing valve in the faucet.

### PART 507 -- KITCHEN FACILITIES

#### § 507.01 Required Barrier to Kitchen

The school shall provide a barrier which prevents children's access to the kitchen while unsupervised.

#### § 507.02 Required Maintenance

The kitchen shall be maintained in a sanitary condition and garbage receptacles used in the kitchen shall be emptied and cleaned daily.

### PART 508 -- ARCHITECTURAL BARRIERS

#### § 508.01 Requirements for Children with Limited Mobility

The school shall assure that children with limited mobility have access, free from barriers to their mobility, to those areas of the school buildings and grounds to which such access is necessary for the carrying out of the educational plans for such children. All schools receiving federal funds shall meet the requirements of Section 504 of the Rehabilitation Act of 1973.

#### § 508.02 Building Entrances

The school enrolling children requiring wheel chairs shall have at least one entrance to each building utilized in carrying out the educational plans for such children without steps and wide enough for a wheel chair.

PART 509 -- REQUIREMENTS FOR EQUIPMENT IN  
DAY AND RESIDENTIAL SCHOOLS

§ 509.01 General Requirements

The school shall provide or arrange for all materials and equipment which are necessary to implement the educational plans of the children enrolled.

§ 509.02 Classroom Materials

The school shall provide adequate textbooks or individual materials during an instructional period so each child may have his/her own, where appropriate:

- (a) There shall be bulletin and chalk boards and display areas in each classroom.
- (b) There shall be adequate individual desks or chairs and tables so that each child has an individual work space.
- (c) There shall be space for each individual child to store his/her school supplies, books, papers, and work.

§ 509.03 Library

The school shall have a library or resource room in addition to the regular instructional materials which contains a variety of materials appropriate to age and ability of the children enrolled and which cover the range of subjects required under Section 302.03 of these Guidelines.

§ 509.04 Recreation Equipment

The school shall provide a variety of recreation equipment, materials and furnishings for indoor and outdoor play which are adequate to meet the needs of children in care. The school shall have equipment including, but not limited to, that for:

- (a) gross motor play;
- (b) fine motor coordination;
- (c) tactile and perceptual development.

§ 509.05 Condition of Equipment

The school shall only use equipment, materials, furnishings, toys and games which are appropriate to the needs and development level of the children. All materials and equipment must be sturdy, safely constructed, flame retardant, easily cleaned and free from lead paint, hazards, protruding nails and rust which may be dangerous to children.

- (a) The school shall keep all equipment, materials, furnishings, toys and games clean and in a safe, workable condition.











Massachusetts Department of Education  
Division of Special Education  
31 St. James Avenue  
Boston, Massachusetts 02116

MAIL TO:

Nonprofit  
U.S. Postage  
PAID  
Permit No. 55623  
Boston, Mass.